

**In re: SAULSBURY ENTERPRISES, AN UNINCORPORATED  
ASSOCIATION; AND ROBERT J. SAULSBURY, AN INDIVIDUAL.  
AMAA Docket No. 94-0002.  
Stay Order filed February 14, 2000.**

Colleen A. Carroll, for Complainant.  
Brian C. Leighton, Fresno, California, for Respondents.  
*Order issued by William G. Jenson, Judicial Officer.*

On May 7, 1996, I issued a Decision and Order concluding that Saulsbury Enterprises and Robert J. Saulsbury [hereinafter Respondents] violated the Marketing Order Regulating the Handling of Raisins Produced From Grapes Grown in California; assessed Respondents, jointly and severally, a civil penalty of \$219,000; and ordered Respondents to pay the Raisin Administrative Committee \$1,673.30 in assessments. *In re Saulsbury Enterprises*, 55 Agric. Dec. 6 (1996), *aff'd in part, denied in part & remanded*, No. CV-F-97-5136 REC (E.D. Cal. June 29, 1999).

Respondents filed a Complaint for Review of the May 7, 1996, Decision and Order in the United States District Court for the Eastern District of California. Thereafter, the parties filed cross-motions for summary judgment, which the Court granted in part and denied in part. *Saulsbury Enterprises v. United States Dep't of Agric.*, No. CV-F-97-5136 REC (E.D. Cal. June 29, 1999) (Order Granting in Part and Denying in Part Cross-Motions for Summary Judgment and Remanding Matter to USDA).

The Court affirmed the May 7, 1996, Decision and Order, with the exception of \$14,000 of the civil penalty.<sup>1</sup> However, the Court concluded that the civil penalty provision in section 8c(14)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, is subject to the Excessive Fines Clause of the Eighth Amendment to the United States Constitution and remanded the proceeding to the United States Department of Agriculture [hereinafter USDA] for findings concerning whether the civil penalty assessed in the May 7, 1996, Decision and Order, as modified by the Court, is excessive within the meaning of the Excessive Fines Clause. The Court states that it retains jurisdiction of the action pending USDA findings and instructs that the parties renew their motions for summary judgment before the Court on the issue of whether the civil penalty assessed against Respondents is or is not excessive within the meaning of the Excessive Fines Clause, once the findings are final. *Saulsbury Enterprises v. United States Dep't*

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<sup>1</sup>In *In re Saulsbury Enterprises*, *supra*, I found that Respondents failed to submit 40 reports to the Raisin Administrative Committee. Fourteen of these reports concern off-grade raisins. The Court concluded that I could not assess a civil penalty against Respondents for failing to submit reports concerning off-grade raisins, given my conclusion that Respondents' raisins were standard raisins. *Saulsbury Enterprises v. United States Dep't of Agric.*, *supra*, slip op. at 48.

*of Agric., supra*, slip op. at 1-2, 33-41, 52.

Simultaneously with the issuance of this Stay Order, I am issuing a Decision and Order on Remand in which I conclude that a \$205,000 civil penalty assessed against Respondents, jointly and severally, is not excessive within the meaning of the Excessive Fines Clause of the Eighth Amendment; assess Respondents, jointly and severally, a civil penalty of \$205,000; and order Respondents to pay the Raisin Administrative Committee \$1,673.30 in assessments. However, since the United States District Court for the Eastern District of California has retained jurisdiction over this proceeding, pending the findings in *In re Saulsbury Enterprises* (Decision and Order on Remand), 59 Agric. Dec. \_\_\_\_ (Feb. 14, 2000), and has instructed the parties to renew their motions for summary judgment before the Court on the issue of whether the civil penalty assessed against Respondents is or is not excessive within the meaning of the Excessive Fines Clause, I am issuing this Stay Order to stay the Order in *In re Saulsbury Enterprises* (Decision and Order on Remand), 59 Agric. Dec. \_\_\_\_ (Feb. 14, 2000), pending the outcome of proceedings for judicial review.

This Stay Order shall remain effective until it is lifted by the Judicial Officer or vacated by a court of competent jurisdiction.

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